1945. File No. Laq Bel/4

Kamrup Legal DEPARTMENT

A BRANCH

Subject:—

Land acquisition,

References from the

Pt. 2

File No. Laq. Bel /45

Std Sectt. Slip 24-B

CONTENTS.

Legal Department File No... Leg. Bel/45

Sr. No.	Compilation No.	Subject	Pages.
		Land Acquisition References from the Belgaum District	
1.	GRLD 5674 / 1/8/1945	Sanction to the institution of an appeal in the High Court Bombay in Compensation Cases Nos 4 to 13 of 1944 under the Land Acquisition Act. Acquisition of land for tobacco improvement at Saundatga in the Karnatak	1-14
2.	GRLD 8155 / 18/11/1946	Sanctioning withdrawal of the First Appeal No. 332 of 1945 filed in the High Court, Bombay in compensation case No. 4 of 1944	15-32
3.	GRLD. 12354 / 3/11/1949	Recording the result of First Appeals Nos. 328 to 331 and 333 to 337 of 1945 in the High Court Bombay filed by Government in Compensation cases Nos 5 to 13 of 1944	33-84.

~~I.R.0681~~.

To

The Remembrancer of Legal Affairs, Bombay.

No.L.A.Q.5713 Via Belgaum, 4th July 1945.

No. 5749
A 9-7-45

Subject:-- Filing an appeal against the order passed by the Assistant Judge, Belgaum in L.A.C. Suit Nos. 4-13 of 1944 - In connection with land acquisition for tobacco improvement at Saundalga in the - - - Karnatak.

The above mentioned ten suits were disposed of by the Asstt. Judge, Belgaum, on 28.3.1945. The court has revised the scale of compensation awarded by the acquiring Officer and ordered that compensation should be paid at an enhanced rate. As a result, Rs.14,600/- have now become payable as additional compensation, pleader's fees, expenses for references and other things.

2. The District Government Pleader, Belgaum opines that an appeal should be filed on the grounds reported by him. The Director of Agriculture is also of the opinion that the compensation awarded by the Court is very high and that an appeal should be filed in the High Court. I agree with the District Government Pleader.

3. As required by rule 131(1) of L.O.R. the District Government Pleader has neither submitted uncertified copies of exhibits nor the relevant portions thereof on which the appeal should be made. They will be submitted soon after their receipt from the District Government Pleader, Belgaum

4. Copies of the reports received from the District Government Pleader and the ~~Agricultural Officers are enclosed~~ Copy A.O. are enclosed. Copy of letter received from the Director of - - Agriculture and the papers in five files accompany. Certified copies ....2.

copies of judgements and decrees of all the ten suits are enclosed.

5. The last date for filing an appeal is 16.7.1945 and immediate orders of Government may therefore be obtained.

Collector of Belgaum.

Copy of letter No. S-50-TT/19354 of 29.6.45 from the Director of Agriculture, Poona to the Secry. to Govt, Reconstruction Deptt., Bombay.

Sub:-- Tobacco... Karnatak... Scheme for improvement of -- in.

"Reference Govt. memorandum, Revenue Department No. 9020/33/9659-A dated 19.5.42, sanctioning the acquisition of land required for the Tobacco Breeding Station, Nipani, at an estimated cost of Rs..32,000/-. The Collector of Belgaum now states (copies of his letter No.LAQ/713 dated 21.6.45 and its accompaniments are enclosed) that in view of the revision of scales of compensation fixed by the Court, an additional amount of Rs 14,600/- (inclusive of reference charges) would be required for the payment of the same. He further states that the Dist. Govt. Pleader, Belgaum, is of the opinion that the rate of compensation allowed by the Court is very high and that it is not justified by evidence. It is also mentioned that the later is in favour of preferring an appeal to the High Court and that an amount of Rs. 3310/- would be required on this account. As the rate of compensation fixed by the Court is obviously very high, I am also in favour of filing an appeal in this case and in view of the fact that the last date viz. 16.7.1945 for filing an appeal in the High Court is fast approaching, I am requesting the Collector of Belgaum to make arrangements to prefer an appeal in this case in anticipation of Government sanction. I would now request that Govt. may be moved to sanction the filing of an appeal in this case and to make available an amount of Rs. 3,310/- required for this purpose and

to

to approve the action taken by me in requesting the Collector of Belgaum to go ahead with this work in anticipation of Government sanction.

The favour of immediate orders of Government is requested."

..

Copy f.w.cs. to the Collector of Belgaum, for information with reference to his letter No.L.A.Q.-713 dated 21.6.1945.

The Collector of Belgaum is requested to go ahea with the work regarding filing an appeal in this case in anticipation of Government sanction.

The papers received with his letter are returned.

...

Copy of District Government Pleader, Belgaum's No. L.A.Q Suit No. 4 to 13 of 1944 dated 5th May 1945.

.....

Subject :- Land Acquisition for Tobacco Improvement at Saundalga in the Karnatak.

.....

"With reference to the above suit, I have the honour to report that all the suits which were decided by the Asstt. Judge, Belgaum, on 28-3-1945 were treated as companion suits and all the evidence recorded in suit No. 12 of 1944. The order passed as under :-

"19. In view ofthe findings the last thing that remains to arrive at the amount of compensation. I have already dealt with the contention of plaintiff in suit No. 12 regarding the well and the valuation of the trees. In the other land also there are wells and trees. In the other lands also there are wells and trees and since the valuation in the award has not been disputed by the respective plaintiffs I award the same amounts as awarded by the Acquiring Officer. The account will work as follow :-

To plaintiff Annarao Bhaurao Mithare in Suit No. 4 of 1944 :-

S.No. 7/1-B 1 acre 28 gunthas @	Rs. 1500/- per acre.	
Compensation.	Rs. 2550/-	
15 per cent under sec. 23	Rs. 382- 8-0.	
1/4th share in the well	Rs. 187- 8-0.	
1/4 share in 2 gunthas round the well.	Rs. 18-12-0.	
Compensation regarding trees.	Rs. 20- 0-0.	
	Rs. 3158-12-0	

To plaintiff Janu Patil in suit No. 9 of 1944.

S.No. 7/1-A 1 acre 21 gunthas.	Rs. 1500/- per acre.	
Compensation.	Rs. 2287- 8-0	
15 per cent under Sec.23	Rs. 343- 2-0	
1/4th share in the well.	Rs. 187- 8-0	
1/4th in the land surrounding the well.	Rs. 18-12-0	

For trees.	Rs. 3- 0-0
	Rs. 2839-14-0

To plaintiff Shidu Joti Magdum in suit No. 11 of 1944 :

S.No. 7/3 3 acres at Rs 1500/- per acre.

Compensation,	Rs. 4500- 0-0
15 per cent under section 23.	Rs. 675- 0-0
1/4th share in the well	Rs. 187- 8-0
1/4th share in the surrounding land.	Rs. 18-12-0
For trees as per award.	Rs. 22- 0-0
	5403- 4-0

To plaintiff Maruti Rama Magdum in suit No. 12 of 194

S.N. 7/2/ 1 acre 38 gunthas at Rs. 1500/- per acre.
2 pot Kharab.

Compensation.	Rs. 2925- 0-0
15 per cent underSec.23	Rs. 438-12-0
1/4th share in the well.	Rs. 187- 8-0
1/4th in Pot Kharab area surrounding.	Rs. 18-12-0
For tree as per award.	Rs. 74- 0-0
	Rs. 3644- 0-0

To plaintiff Ganu Subrao Sakhadev in suit No. 6 of 1944.

S.Nos. 2 and 4 with area of 2-30 and 1-37 respectively at Rs.1500/ per acre. Plff. has 1/4th share in the two lands.

Compensation	Rs. 1753- 2-0
15 per cent under Sec. 23.	Rs. 262-15-6
1/4th share in the well as per award.	Rs. 187- 8-0
For trees as per award.	Rs. 7- 8-0
	Rs. 2211- 1-6

To plaintiff Dattatraya Ramachandra Kulkarni in Suit No.7/1944 Who has half share in S. Nos. 2 and 4 at Rs. 1500/- per acre.

Compensation.	Rs. 3506- 4-0
15 per cent under Section 23.	Rs.. 525-15-0
1/2 share in the well.	Rs. 375- 0-0
1/2 share in the trees.	Rs. 15- 0-0
	Rs. 4422- 3-0

To plff. Ganpat Govind Baydekar in Suit No. 10 of 1944, wh[illegible] a quarter share in S. Nos. 2 and 4 at Rs. 1500/- per acre :-

Compensation.	Rs. 1753- 2-0
15 per cent under Sec.23	Rs. 262-15-6
1/4th share in the well.	Rs. 187- 8-0
for trees.	Rs. 7- 8-0
	Rs. 2211- 1-6

To plfr. Narayan-Sadashiv Kulkarni in suit No. 5 of 1944, S,No.5 and 6 having areas respectively of 0-05 and 1-4 at the rate of 1300/- and Rs. 1200/- respectively per acre. In this plff. has half share and fork his share the amount is as follow :-

For 1/2 in S.No. 5

Compensation.	Rs. 5768-12-0
15 per cent.	Rs. 865- 5-0
For trees.	Rs. 60- 0-0
For hutts, etc.	Rs. 50- 0-0
	Rs. 6744- 1-0

For 1/2 in S.No. 6 :-

Compensation.	Rs. 660- 0-0
15 per cent.	Rs. 99- 0-0
For trees.	Rs. 15- 0-0
	Rs. 774- 1-0
Total :-	Rs. 7518- 1-0

To plff. Savitribai Sakharam Kulkarni in Suit No. 8 of 1944.

For 1/2 here in S.No. 5

Compensation	Rs. 5768- 0-0
15 per cent.	Rs. 865- 5-0
For tree.	Rs. 60-,0-0
For huts.	Rs. 50- 0-0
	Rs. 6744- 1-0

For 1/2 in S.No. 6 :-

Compensation.	Rs. 660- 0-0
15 per cent.	Rs. 99- 0-0
For tree-	Rs. 15- 0-0

	Rs. 774- 0-0
Total.	Rs. 7518- 1-0

To plff. Govind Devba Sutar in suit No. 13 of 1944.

S.No. 3 area 1-4 at Rs. 1200/- per acre.

Compensation.	Rs.	1320- 0-0
15 per cent under Sec. 23.	Rs.	198- 0-0
For trees as per award.	Rs.	13- 0-0
Capitalised value of Nuksan.	Rs.	69- 6-0
	Rs.	1600- 0-0

I award to the respective plaintiff the amounts shown above against their names as compensation. Deducting the amounts already paid the Collector will pay interest at 4 per cent per annum on the difference in the amount of compensation from the date of dispossession till date of payment. Looking to the fact that the plffs. had made a claim at a fabulous rate of Rs. 2500/- to Rs. 3000/- per acre where as they have been allowed at almost half the rate think the proper order will be that parties should bear their cost.

2. The Court has awarded compensation at the rate of Rs. 1500/- per acre for Bagayat lands, i.e. S.Nos. 2,4 and 7 and at Rs. 1300/- per acre for good Jirayat Lands i.e. S.No. 5 at Rs. 1200/- per acre for an inferior Jirayat lands, ie.e. S.Nos. 3 and 6. These rates work at about 1¼ times the rate allowed by the Acquiring Officer. In my opinion the rate allowed is very high and not justified by the evidence on record.

3. In learned Asstt. Judge has practically discarded almost all the evidence for the plffs. and has relief upon certain evidence as detailed in para 18 of the judgment for his findings. He erred in relying upon the evidence of the Kulkarni, who had no personal knowledge about the transactions, nor about the circumstances under which they were entered into. The learned Judge was also wrong in rejecting the evidence of the transaction of Bandu Jivaji and Mithare whose heirs of successors are pllfs., in suit of the present suits, on the ground that the purchaser or vendor are not examined. It was upto the plffs. to have placed that evidence before the court. In fact an attempt has been made. though unsuccessfully, as would

would appear from the judgment paras 16 and 17 by the plffs. to explain away the effects of these two transactions. The court was wrong in throwing the burden on the defendant and in the case of Mithare's transaction it grossly earred in presuming that the sale was as consideration for services rendered by Mr. Mithare as pleader, in the absence of any evidence to that effect on the record. The evidence on record regarding this point is only hereby except the fact that Mr. Mithare purchased the land from his brother-in-law. These two transactions serve as very good cretorion regarding price of lands S.No.2,4 and 7. Besides the learned Asstt. Judge is wrong in presuming that the prices in 1941 must have gone up by 1½ times the normal prices. As a matter of fact the rice began at the end of 1942 of which judicial notice can be taken.

4. For all these reasons, I am of opinion that an appeal should be preferred against the decree in all these suits.

5. The appeals will have to be preferred to the High Court and within three months from the date of decree plus the time required for copies. One uncertified copy and another certified copy of decree and judgment in all the suits are sent herewith."

.....

Copy of the A.C.'s endorsement No.L.A.Q.S.R.- 83 dated 23rd May 1945.

Submitted to the Collector of Belgaum with the papers of the case in files I to V.

2. The total compensation awarded in all these suits by the Acquiring Officer comes to Rs. 28952-0-3, where as the Court has ordered payment of the total compensation amount of Rs. 40526-12-0 with the result that Government will be required to pay the additional compensation of Rs. 11574-11-9 plus interest at 4 per cent from the date of taking the possession to the date of payment of the additional amount.

3. According to the opinion of the Dist. Government Pleader, Belgaum the rate of compensation of Rs. 1500/- per acre for [redacted] lands, Rs. 1300/- for good Jirayat land and Rs. 1200/-

for inferior Jirayat land awarded by the court is very high and is not justified by the evidence on record. He opines that an appeal should be preferred in the High Court.

4. The valuation by the Acquiring Officer was fixed on the actual sales of the lands in the vicinity. I agree with the Govt. Pleader that the Asstt. Dist. Judge has erred in law as well. I would recommend that an appeal should be preferred to the High Court.

Land Acquisition.
Belgaum.

Appeal in the High Court, Bombay, in Compensation Cases Nos.4 to 13 of 1944 under the Land Acquisition Act,1894.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.5677
Bombay Castle, 13th ~~July~~ August 1945.

Revenue Department, Unofficial reference dated 3rd July 1945.

Letter from the Collector of Belgaum, No.L.A.Q.713,dated the 4th July 1945 - Forwarding papers together with a copy of the reports of the District Government Pleader, Belgaum, and the Acquiring Officer and requesting sanction to the institution of an appeal in the High Court, Bombay, against the decision of the Assistant Judge, Belgaum dated the 28th March 1945, in the cases noted in the appendix.

Letter to the Government Pleader, High Court, Bombay, No.5103, dated the 11th July 1945 - Forwarding papers and directing him to take steps to file an appeal.

RESOLUTION.- Sanction is accorded to the institution of an appeal in the High Court, Bombay, against the decision of the Assistant Judge, Belgaum, dated the 28th March 1945, in the cases noted in the appendix on the grounds contained in the award of the Acquiring Officer and the letter of the District Government Pleader, Belgaum, No.L.A.Q.Suit Nos.4 to 13 of 1944, dated the 5th May 1945.

By order of the Governor of Bomb

Issued C&P 1/8.

Submitted for signature. To

original

For{P. N. Moos,
Secretary to Government.

The Revenue Department.
The Finance Department.
The Accountant General, Bombay.
The Commissioner, Southern Division.
The Collector of Belgaum.
The Government Pleader, High Court, Bombay.

Appendix.

In the Court of the Assistant Judge, Belgaum.

Suit No.4 of 1944.

Annarao Bhaurao Mithare ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.5 of 1944.

Narayan Sadashiv Kulkarni ... Plaintiff;

vs.

The Collector of Belgaum ... Defendant.

Suit No.6 of 1944.

Ganu Subrao Sakdeo ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.7 of 1944.

Dattatraya Ramchandra Kulkarni.. Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.8 of 1944.

Savitribai Sakharam Kulkarni.... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.9 of 1944.

Janu Joti Patil. ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.10 of 1944.

Ganpat Govind Bawdekar. ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.11 of 1944.

Shiddu Joti Magdum. ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.12 of 1944.

Maruti Rama Magdum. ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

Suit No.13 of 1944.

Govind Devba Sutar. ... Plaintiff;

vs.

The Collector of Belgaum. ... Defendant.

In His Majesty's High Court of Judicature at Bombay.

First Appeal No.335/45.

The Collector of Belgaum ..... Appellant.

Vs.

Savitribai Bharatar Sakharam Kulkarni. .... Respondent.

Claim Rs.

The respondent above-named begs to urge the following cross-objections to the decree appealed against:-

1) The lower Court should have granted the full amount claimed as compensation in the Land Acquisition Suit under Appea

2) The lower Court should have granted costs to the respondent.

B o m b a y,
18-12-1945.

Sd. R.A.Jahagirdar,
Advocate for Respondent.

v/p.1 ante

11189/19-12-1945

Submitted with reference to the endorsement of the Government Pleader, High Court, Bombay No.4467 dated 18-12-45 at p. 1 ante.

2. Sanction for the institution of an appeal by Government in the High Court, Bombay under section 54 of the Land Acquisition Act,1894(I of 1894) against the decision of the Assistant Judge, Belgaum, dated the 28th March 1945, in L.A.Q. suits Nos. 4 to 13 of 1944, in the Court of the Assistant Judge, Belgaum, was accorded by L.D.G.R.No.5677 dated 1-8-1945, on the grounds contained in the award of the Acquiring Officer and the letter of the D.G.P. Belgaum No.L.A.Q. suit Nos.4 to 13 of 1944 dated 5-5-1945. Attention is invited to A.L.R.'s note dated 5-7-1945 underlying the said L.D.G.R. at p.31 of Law.Bel/45 below, in which he was not quite sure that the Assistant Judge's award was so very excessive as to make an appeal worthwhile. In view of the administrative department's desire to file an appeal sanction to the institution of First Appeal No.335/45 was accorded.

x p.57 ante
Law-Bel/45 (Below)

h ante

3. Now, the G.P.High Court, Bombay, has sent a copy of the cross-objections filed on behalf of the Respondent in the said First Appeal No.335/45 and requested that instructions for opposing the said cross-objections, if any, may be communicated to him. In the absence of the copy of the judgment of the Assistant Judge, Belgaum, and a copy of the memo. of Appeal filed in the High Court, it is not possible to issue any helpful instructions to the G.P.High Court for opposing the cross-objections. Under the circumstances, G.P. High Court, Bombay, may be

instructed to oppose the cross-objections on such grounds, if any, as may be communicated to him by the Collector of Belgaum.

1 A

20/12/45.

A. Z. R. RE 20/12

R K A. 21/12/45

"D"

No. 2715

Office of the
Government Pleader, High Court, A.S.,
B o m b a y , 16th August 1946.

From

S.G.Patwardhan, Esquire, B.A., B.Sc., LL.M.,
Government Pleader, High Court.

To

The Secretary to Government, Legal Department,
B o m b a y.

THE SECRETARY TO GOVERNMENT
LEGAL DEPARTMENT
File No.
Sub No. 7321
Branch A 19/8/46

Subject:- First Appeal No.332/45 in Suit No.4/44.(Collector of Belgaum Vs. A. B. Mithare).

Sir

With reference to Government Resolution, Legal Department, No. 5677, dated the 1st August 1945, and The Remembrancer of Legal Affairs, Bombay's letter No.3270 dated the 2nd May 1946, to the Collector of Belgaum, on the above subject, I have the honour to state that in my opinion the appeal should be withdrawn for the following reasons.

(1) The decree under appeal was made on April 10th, 1945, in favour of one Annarao Bhaurao Mithare who had died sometime before January 1944.

(2) The said decree is therefore a nullity which means that in any execution application the decree can be challenged on that ground (See Mulla's Civil Procedure Code, pages 177, 936, 937).

(3) From the Roznama in the case it appears that on -- January 13th, 1944; the notice addressed to Annarao Bhaurao Mithare, who was the plaintiff, was returned unserved as the plaintiff had died.

(4) On March 30th, 1944, Ex.9 was put in which the Roznama describes as "Vakalat of the Plaintiff filed by Mrs. Sushilabai w/o A.B.Mithare, pleader for herself and proposed guardians of the minor sons filed"

Even so it seems no formal and legal application was ever made to bring on record the heirs or legal representatives of the deceased A.B.Mithare. This is further borne out by the fact that the decree which is dated 10th April 1945 itself is in the name of Annarao Bhaurao Mithare.

I have therefore to request you to let me know what action I should take in the matter.

Your obedient servant,

Government Pleader, High Court.

55.

2. By L.D. G.R. No. 5677 dated 18-8-1945 at p. 57 of L.A.Q. Bel/45, sanction was accorded to the institution of appeals in the High Court, Bombay, against the decision of the Asst. Judge, Belgaum dated 28-3-1945, in inter alia L.A. suit No. 4 of 1944. It appears that Mr. A.B.Mithare was plaintiff in L.A. suit No. 4 of 1944. After First Appeal No. 332/45 in the said suit was preferred and inquiries were made in due course, about the respondent being alive or dead, it is found that respondent Mr. A.B.Mithare is dead. The G.P.High Court, Bombay, had requested the Collector of Belgaum to send an affidavit, giving substantially strong reasons for delay and in this office No. 3270 dated 2-5-1946, the R.L.A. had requested the Collector of Belgaum to send the affidavit required by H.C. His attention was also invited to R.L.A. as circular No. L.A.Q.-1/28 dated 6-7-1929.

3. Now, the G.P. High Court, Bombay, points out that the said First Appeal No. 332/45 in Suit No. 4/44 (Collecotr of Belgaum vs. A.B.Mithare) should be withdrawn for the following reasons, namely:-

(1) The decree under appeal was made on April 10th 1945, in favour of one Annarao Bhaurao Mithare who had died sometime before January 1944.
(2) The said decree is therefore a nullity which means that in any execution application the decree can be challenged on that ground (see Mulla's Civil Procedure Code, Pages 177, 936, 937).

(3) From the Roznama in the case it appears that on January 13th, 1944, the notice addressed to Annarao Bhaurao Mithare, who was the plaintiff, was returned unserved as the plaintiff had died.

(4) On March 30th, 1944, Ex.9 was put in which the Raznama describes as "Vakalat of the Plaintiff filed by Mrs. Sushilabai w/o A.B.Mithare, Pleader for herself and proposed guardians of the minor sons filed".

Even so it seems no formal and legal application was ever made to bring on record the heirs or legal representatives of the deceased A.B.Mithare. This is further borne out by the fact that the decree which is dated 10th April 1945 itself is in the name of Annarao Bhaurao Mithare. He has therefore, requested this office to let him know what action he should take in the matter.

4. For the above reasons given by the G.P. High Court, it seems F.A. No.332/45 in suit No. 4/44 will have to be with drawn, but before doing so, the Collector of Belgaum may be consulted, as per draft letter put up for approval and signature.

BSP 23/8/46

A.A.K.R. RK 23/8

D.J. 26/8/46

AP 28/8

Land Acquisition, Belgaum

Appeal in the High Court, Bombay, in Compensation Cases Nos. 4 to 13 of 1944 under the Land Acquisition Act, 1894.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 8155
Bombay Castle, 18th November 1946.

Read Government Resolution, Legal Department No.5677, dated the 1st August 1945.

× Letter from the Government Pleader, High Court, Bombay, No. 2715, dated the 16th August 1945 stating that First Appeal No. 332 of 1945, filed in the High Court by Government in the ~~suit~~ noted in the margin should be withdrawnn as the claimant died sometime before January 1944, and no application was ever made to bring on record the heirs or the legal representatives of the deceased and that the decree already passed in his favour is a nullity.

In the Court of the Assistant Judge, Belgaum.
Compensation Case No. 4 of 1944
Annarao Bhaurao Mithare .....Claimant
vs.
The Collector of Belgaum .....Opponent

× P.5 × Letter to the Collector of Belgaum No. 5954, dated the 28th August 1946 - inquiring whether the appeal should be withdrawn or proceeded with.

× P 7 × Letter from the Collector of Belgaum No. L.A.Q. 713, dated the 2nd September 1946, - stating that for reasons stated the appeal should be proceeded with.

× P. 9 × Endorsement from the Government Pleader, High Court, No. 2864, dated 5-9-46-forwarding a copy of his letter addressed to the Collector of Belgaum, No. 2863, dated the 5th September 1946 - stating that as the decree passed in favour of the deceased was a nullity it can be challenged in an execution application.

× P. 21 × Letter from the Collector of Belgaum No. L.A.Q.713, dated the 18th September 1946, - agreeing with the view taken by the Government Pleader, High Court, Bombay, and requesting that the Appeal ~~xx~~ may be withdrawn.

RESOLUTION.- Sanction is accorded to the withdrawal of the First Appeal No. 332 of 1945 filed in the High Court, Bombay, in the Compensation Case referred to above.

By order of the Governor of Bombay,

Original E.P.Bhamgara

E.P.BHAMGARA,
Assistant Secretary to Government.

Sd. for signature
KBB
16/11/46
S.S.(Rev) 16/11
S.A.S.

To
The Revenue Department,
The Finance Department,
The Accountant General, Bombay,
The Commissioner, Southern Division,
The Collector of Belgaum,
The Government Pleader, High Court, Bombay.

HSS.
15/11.

Issued 18/11

Lag-Bel/45

20/11/46

Subd. after issue.

2. File in Lag. Bel/45.

XBB 21/11/46

K. 137

	Rs	as	ps.	fols. 1½
Sectioner Mr. Desai. W.A.	0 -	3-	0	
Examiner Mr. Burli R.S.)				
Reader Mr. Kulkarni)	0 -	1-	0	
Paper charges ...	0 -	0-	3	
Total Rs.	0 -	4-	3	

Annas four and pies three only.

Supdt Decree Dept.
16-9-47

Copy applied for on 12/3/47
Copy ready on 16/9/47
Copy delivered on 23/9/47
sent by V. P. P. Regd. Post on

Assistant Superintendent

RECEIVED PAYMENT
23-9-1947
Clerk, D. Department,
High Court, Appellate Side,
Bombay

HIGH COURT APPELLATE SIDE
CERTIFIED COPY
BOMBAY

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case of --

The Collector of Belgaum .. .. .. Applicant.

Versus

1.Shushilabai w/o Annarao Bhaurao Mithare;
2.Ravondranath Annarao Mithare , and
3. Ramesh Annarao Mithare ; Nos. 2 and 3 minors by their guardian their mother Opponent No.1, heirs and legal representatives of the deceased Annarao Bhaurao Mithare) Opponents.

Being Civil Application No. 384 of 1946 for bringing heirs of the deceased Respondent No.1 on record and for appointment of a guardian for the minor heirs in First Appeal No. 332 of 1945.

Assistant
The Government Pleader for the applicant.

Coram:- Dixit, J.

Application allowed to be withdrawn.

This 12th day of March 1947.

True copy

Deputy Registrar.

The 16th day of September 1947.

RSK

K 136

Rs. As. Ps/ Fls. 1

Sectioner Mr. G.R.Desai. 0-2-0
Examiner Mr. Azad.)
Reader Mr. Pendharkar) 0-0-0
Paper charges. 0-0-3

Total 0-2-3

Annas two and pies three only.

Copy applied for on 12-3-47
Copy ready on 29-9-47
Copy delivered on 31-10-47
sent by N. P.P. on
Regd. Post

Assistant Superintendent.

Superintendent D.D.
29-9-1947.

RECEIVED PAYMENT
31-10-1947

Clerk, E. Department,
High Court, Appellate Side,
Bombay

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case of

The Collector of Belgaum ... ... Appellant.
(Original Defendant.

versus

Annarao Bhaurao Mithare ... ... Respondent.
(Original plaintiff).

being Appeal No. 332 of 1945 from Original Decree.

(with F.A. Nos. 328 to 331 and 333 to 337 of 1945)

(Under Act I of 1894).

The Assistant Government Pleader for the appellant.

Coram :- Dixit, J.

Appeal allowed to be withdrawn.

12-3-47. Sd. S.H. Belavadi.

for Registrar.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

True Copy

Deputy Registrar.

The 29th day of September 1947.

K136

Rs.As.Ps. Fls. 6

Sectioner Mr. G.K.Desai. 0-12-0
Examiner Mr. Azad.)
Reader Mr. Pendharkar) 0- 3-0
Paper charges. 0- 0-6

Total 0-15-6

Annas fifteen and pies six only.

Superintendent D.D.
29-9-1947

Copy applied for on 12-3-47
Copy ready on 29-9-47
Copy delivered on 31-10-47
V.P.P.
Sent by Regd. Post

Assistant Superintendent.

RECEIVED PAYMENT
31-10-1947
Clerk, B. Department,
High Court, Appellate Side,
Bombay

Copy applied for on 12-3-47
Copy ready on 29-9-47
Copy delivered on
Sent by V.P.P. Regd. Post on

Assistant Superintendent.

HIGH COURT APPELLATE SIDE BOMBAY
CERTIFIED COPY

In His Majesty's High Court of Judicature at Bombay.

Wednesday the 12th day of March 1947.

Appeal No. 332 of 1945 from Original Decree.

(With F.A. Nos. 328 to 331 and 333 to 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum ... ... Appellant.
(Original defendant).

versus

Annarao Bhaurao Mithare ... ... Respondent.
(Original plaintiff).

Claim Rs. 1217-7-6 for all purposes.

This is a reference under section 18 of the Land Acquisition Act.

The Land Acquisition Suit No.4 of 1944 was decided by the Assistant Judge of Belgaum who awarded Rs. 3158-12-0 as compensation to the plaintiff ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against are :-

1. That the learned Assistant Judge erred in awarding compensation at rates higher than those fixed upon by the Prant Officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions of Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note :- The learned Assistant Judge awarded Rs. 3158-12-0 and the Prant Officer's award was Rs. 1941-4-6. Therefore the difference viz. (Rs. 3158-12-0) - (Rs. 1941-4-6) = Rs. 1217-7-6 is the claim in Appeal.

Coram :- Dixit J.

Appeal allowed to be withdrawn.

12th day of March 1947. Sd. R.S. Vaze.

Registrar.

Bill of Costs in the High Court.

	Rs.As.Ps.
By the appellant.	
Stamps for Memorandum of Appeal.	112-8-0
Stamps for copies of decree and judgment.	1-14-0
Stamps for Vakalatnama.(Govt. Pleader appears)	0-0-0
Stamps for application to enter the names of the heirs of the deceased respondent.	5-0-0
Bhatta for process.	2-8-0
Sectioner's fee.	1-7-0
Advocate's fee.	45-0-0
Printing charges.	11-0-0
Copying charges for preparing paper books.	12-12-0
Copying fee under rule 111 of the High Court appellate Side Rules, 1936.	5-10-0
Total	197-11-0

By the respondent. Rs.As.Ps.

No appearance.

(Seal) Sd. S.H. Belavadi.

Deputy Registrar.

The 12th day of March 1947.

True Copy

S.H. Belavadi

Deputy Registrar.

The 29th day of September 1947.

HIGH COURT APPELLATE SIDE
CERTIFIED COPY
BOMBAY

33

Land Acquisition.
Belgaum.
Appeal in the High Court, Bombay, Compensation Cases Nos.4 to 13 of 1944 under the Land Acquisition Act,1894.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 12354
Bombay Castle, 3rd ~~October~~ November 1949.

Read Government Resolution, Legal Department, No.5677 dated the 1st August 1945.

Letters from the Government Pleader, High Court, Bombay No.1952 dated the 16th April 1949 and Nos.1946, 1950, 1948, 1956, 1962, 1960 and 1954 dated the 19th April 1949 forwarding an uncertified copy of judgment in First Appeal No.328 of 1945 and stating that the First Appeals Nos.328 to 331 and 333 to 337 of 1945 were decided by the High Court, Bombay on 17th March 1949 when the orders specified in the Appendix were passed.

RESOLUTION:- The result of the appeals is recorded.

By order of the Governor of Bombay,

original.

R.M.Mehta,
Assistant Secretary to Government.

To

The Revenue Department,
The Finance Department,
The Accountant General, Bombay,
The Commissioner, Southern Division,
The Collector of Belgaum.

Issued 30/11

Submitted for signature.
31/X

S.F.M.
PGS
6/X/49

A.S.R. 3/11/49

Submitted after done

File in Leg. Bet 4/49

4/11

Min 5/11

Suptcf

AHR Rtk 5/11

A P E N D I X

First Appeal No.328 of 1945 in Civil Suit No.12/44.
The Collector of Belgaum
vs.
Maruti Rama and others.

The Court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding to the plaintiff the sum of Rs.4316-4-0 in place of of the sum of Rs.3644/- with this modification the order of the lower court is confirmed.

Parties to bear their own costs in the cross objections.

First Appeal No.329 of 1945 in the Civil Suit No.13 of 1944
The Collector of Belgaum
vs.
Govind Devba Sutar

The Court confirms the order of the lower court and dismisses the appeal with costs.

First Appeal No.330 of 1945
in Civil Suit No.10 of 1944
The Collector of Belgaum
vs.
Ganpat Govind Bavdekar

The court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding the plaintiffs the sum of Rs.2614 -5-6 in place of the sum of Rs.2221-1-6. With this modification the order of the lower court is confirmed. The parties to bear their own costs in the cross-objections.

First Appeal No.331 of 1945
in Civil Suit No.11 of 1944
The Collector of Belgaum
vs.
Shiddu Joti Magdum

The Court confirms the order of the lower court and dismisses the appeal with costs.

First Appeal No.333 of 1945
in Civil Suit No.5 of 1944
The Collector of Belgaum
vs.
Narayan Sadashiv Kulkarni

The Court dismisses the appeal with costs partly allows the cross objections and modifies the order of the lower court by awarding the plaintiffs the sum of Rs.7765-11-0 in place of the sum of Rs.7518-1-0 With this modification the order of the lower court is confirmed. The parties to bear their own costs in the cross-objections.

First Appeal No.335 of 1945
in the Civil Suit No. 8 of 1944
The Collector of Belgaum
vs.
Savitribai Sharam Kulkarni

The Court confirms the order of the lower court and dismisses the appeal. There shall be no order as to costs".

First Appeal No.336 of 1945
in Civil Suit No.6 of 1944
The Collector of Belgaum
vs.
Gamu Subrao Shadeo

The Court confirms the order of the lower court and dismisses the appeal with costs.

First Appeal No.337 of 1945
in the Civil Suit No.7 of 1944
The Collector of Belgaum
vs.
Dattatraya R.Kulkarni

The Court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding the plaintiffs the sum of Rs.5228-10-0 in place of the sum of Rs,4422-8-0 With this modification the order of the lower court is confirmed. The parties to bear their own costs in the cross-objections.----------

First Appeal No.334 of 1945
in Civil Suit No.9 of 1944
The Collector of Belgaum
Vs.
Janu Joti Patil.

The Court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding the plaintiffs the sum of Rs.3366-0-0 in place of the sum of Rs.2839-14-0 With this modification the order of the lower court is confirmed. The parties to bear their own costs in the cross-objections.

S.F.M.

Rs.as.ps.

Recd on 1-8-49
Typed on 3-8-49. K. 197. Sectioner Mr.D.R.Gokarn 0-2-0 Fols. 1
Examiner Mr. D.S.Narvekar 0-0-0
Reader Mr. V.N.Shah.
Paper charges. 0-0-3

Total Rs... 0-2-3

Annas Two, and pies three only.

Copy applied for on 19-3-49
Copy ready on 4-8-49
Copy delivered on 1-9-49
sent by V. P. P. / Regd. Post on

Assistant Superintendent

Supdt Decree Deptt.
4-8-49.

HIGH COURT APPELLATE SIDE
CERTIFIED
Copy
BOMBAY

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

Order passed by the High Court in the Case of :

The Collector of Belgaum

(Original Defendant).....Appellant.

Versus.

Govind Devba Sutar

(Original Plaintiff).....Respondent.

being Appeal No. 329 of 1945 From Original Decree

(With First Appeals Nos. 328 and 330 to 337 of 1945)

(Under Act I of 1894)

The Government Pleader for the Appellant.

Mr. B. N. Gokhale, Advocate for the Respondent.

Coram:- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the

lower Court and dismisses the appeal with costs.

17th March 1949. Sd/- S. H. Belavadi.

Deputy Registrar.

True Copy.

For Deputy Registrar

The 4th day of August 1949.

.....

.....

.....

Recd on 16-7-49
Typed 19-7-49. K.197.

	Rs.as.ps.	
Sectioner Mr.D.R.Gokarn	0-12-0	Fols. 6
Examiner Mr. C J Sawant	0-3-0	Cf. 207.
Reader Mr. P R Dabholkar		
Paper charges.	0-0-6	
Total Rs....	0-15-6	

Annas Fifteen and pies six only.

Khursanchi
Supdt Decree Deptt.
21-7-49.

...ed for on 19-3-49.
... 21-7-49.
...ered on 1-9-49.
...nt by V. P. P. Regd. Post on

...
Assistant Superintendant

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Thursday the 17th day of March 1949.

Appeal No. 329 of 1945 From Original Decree.

(With First Appeals Nos. 328 and 330 ~~and~~ to 337 of 1945)

(Under Act I of 1894)

The Collector of Belgaum

(Original Defendant). .....Appellant.

Versus.

Govind Devba Sutar.

(Original Plaintiff).....Respondent.

Claim Rs.532-15-9 for all purposes.

This is a reference under Section 18 of the Land Acquisi-tion Act.

The Land Acquisition Suit No. 13 of 1944 was decided by the Assistant Judge of Belgaum who awarded Rs.1,600-6-0 as compensation to the Plaintiff ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against

are:-

1. That the learned Assistant Judge erred in awarding compensation at rate higher than those fixed upon by the Prant Officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the Plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the ~~xxxxx~~ decree is contrary to law, the weight of evidence on the record and the probabilities.

Note.- The learned Assistant Judge awarded Rs.1,600-6-0 and the Prant Officer's award was Rs.1,067-6-3. Therefore the difference, viz. Rs.1,600-6-0 - (Rs.1,067-6-3) - Rs.532-~~8-9~~ is the claim in Appeal.

Coram:- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the lower court and dismisses the appeal with costs.

17th day of March 1949.

Sd/- S.H.Belavadi.
Deputy Registrar.

Bill of costs in the High Court:

By the Appellant:	Rs.as.ps.
Stamp for Memorandum of Appeal.	50-10-0
Stamps for copies of decree & judgment.	1-14-0
Stamps for Vakalatnama. G.P.appears.	0-0-0
Bhatta for Process.	2-0-0
Sectioner's Fee.	45-0-0
Printing charges.	11-0-0
Copying charges for preparing paper-books.	1-12-0
Copying Fee under Rule 111 of the High Court Rules,1936	1-2-0
Total Rs.....	114-13-0

By the Respondent:	Rs.as.ps.
Stamps for Vakalatnama.	2-8-0
Advocate's Fee.	45-0-0
Total Rs....	47-8-0

Sd/- S.H.Belavadi.

Deputy Registrar.

The 17th day of March 1949.

True copy.

For Deputy Registrar.

The 21st day of July 1949.

HIGH COURT APPELLATE SIDE BOMBAY

K. 198. Rs.As.Ps. Fls. 2

Sectioner Mr. G.R.Desai. 0-4-0

Examiner Mr. R.C.Rawal)
Reader Mr. V.R.Oza.) 0-1-0

Paper charges. 0-0-3

Total 0-5-3

Annas five and pies three only.

Superintendent D.D.
1-8-1949.

Copy applied for on 19-3-49.
Copy ready on 1-8-49
Copy delivered on 1-9-49
Sent by

HIGH COURT APPELLATE SIDE BOMBAY CERTIFIED COPY

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case of

The Collector of Belgaum ... ... Appellant.
(Original defendant).

Versus

1. Sitabai w/o Ganpat Govind Bavdekar.
2. Vasant alias Moreshwar Ganpat Bavdekar.
3. Yeshwant alias Govind Ganpat Bavdekar

Amended vide court's order dated 24-2-49 on C.A. 47/49.

Nos. 2 and 3 minors by their guardian No. 1

all heirs of deceased Ganpat Govind Bawdekar ..Respondent.
(Original plaintiff).

being Appeal No.330 of 1945 from Original Decree.

(with First Appeal Nos. 328, 329 and 331 to 337 of 1945)

(Under Act I of 1894).

The Government Pleader, for the appellant.
Mr. B.N. Gokhale Advocate for the respondent.

Coram :- Weston and Dixit, JJ.

For the reasons ~~x~~ given in the judgment recorded in First Appeal No. 328 of 1945, the Court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding to the plaintiff the sum of Rs. 2614-5-6 in place of the sum of Rs. 2221-1-6 . With this modification the order of the lower court is confirmed.

Parties to bear their own costs in the Cross objections.

17th day of March 1949

Sd. S-H. Belavadi.

Deputy Registrar.

'True Copy

for Deputy Registrar.

The 1st day of ~~July~~ August 1949

K. 198.

	Rs.As.Ps. Fls. 12
Sectioner Mr. G.R.Desai	1-8-0
Examiner Mr. R.C.Rawal Reader Mr. V.R.Oza. }	0-6-0
Paper charges.	0-0-6
Total	1-14-6

Rupee one, annas fourteen and pies six only.

Superintendent D.D.
30-8-1949
1-8-49

Copy applied for on 19-3-49
Copy ready on 1-8-49
Copy delivered on 1-9-49
sent by post/hand/parcel on
Assistant Superintendent

In the High Court of Judicature at Bombay.

Thursday the 17th day of March 1949.

Appeal No. 330 of 1945 from Original Decree.

(With First Appeals Nos. 328,329 and 331 to 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum ... ... Appellant.
(Original Defendant).

versus

1. Sitabai w/o Ganpat Govind Bawdekar.
2. Vasant alias Moreshwar Ganpat Bawdekar.
3. Yeshwant alias Govind Ganpat Bawdekar

Amended vide Court's court's order dated 24-2-49 on C.A. 47/49.

Nos. 2 and 3 minors by their guardian No. 1

all heirs of deceased Ganpat Govind Bawdekar. Respondent.
(Original plaintiff).

HIGH COURT APPELLATE SIDE BOMBAY CERTIFIED COPY

Claim Rs. 616-12-3 for all purposes.

This is a reference under section 18 of the Land Acquisitio Act.

The Land Acquisition Suit No. 10 of 1944 was decided by the Assistant Judge of Belgaum, who awarded Rs. 2221-1-6 as compensation to the plaintiff ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of September 1945.

Ref

The grounds of objection to the decision appealed against are :-

1. That the learned Assistant Judge erred in awarding compensation at rates higher than those fixed upon by the Prant Officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the plaintiff.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note :- The learned Assistant Judge awarded Rs. 2221-1-6 and the Prant Officer's award was Rs. 1604-5-3. Therefore the difference, viz. (Rs. 2221-1-6)- (Rs. 1604-5-3) = Rs.616-12-3 is the claim in appeal.

Cross objections in First Appeal No. 330 of 1945.

Claim Rs. 1357-2-4 for all purposes.

The respondent above named, begs to file cross objections against the decree appealed from on the following among other grounds namely, that :-

1. The lower court should have awarded compensation to the respondent at the rate of Rs. 2500/ per acre of Bagayat land.

2. It is an error to hold that there is only a difference of Rs. 200 per acre in the price of Bagayat and Jirayat lands.

3. The oral and documentary evidence on the record has not been properly appreciated and construed.

4. It should have been held that the test of income would

support the claim of the respondent.

5. The fact that the respondent has lost the bulk of his Bagayat lands which were the main source of his livelihood has been ignored.

6. The fact that the award gave Rs. 800 for the well has been lost sight of.

7. The lower court has not properly appreciated the fact that the Panchanamas produced at the time of the award have not been duly proved, and that the Panchas though cited as witnesses have not been examined.

8. Interest should have been awarded from the date of possession at the rate of 6 per cent.

9. It was wrong not to have allowed the respondent his costs in the suit.

HIGH COURT APPELLATE SIDE BOMBAY CERTIFIED COPY

10. The material provisions of the Land Acquisition Act I of 1894 have not been properly followed .

11. The decision is against law, equity and the weight of evidence on the record.

N.B. The learned Assistant Judge awarded Rs. 2,016-1-6 in respect of 1/4 share in S. Nos. 2 and 4 at the rate of Rs. 1500 per acre. The respondent claims compensation in respect of the said S. numbers at the rate of Rs. 2500 per acre. Calculated on this basis, the additional compensation which the respondent would be entitled to get would amount to Rs. 1344-10-4. He is also claiming Rs. 12-8-0 as additional compensation in respect of 1/4 share in the well as per the valuation in the award. The claim in the cross objections would therefore be Rs. 1357-2-4. This includes the statutory 15 per cent.

Coram :- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court dismisses the appeal with costs, partly allows the cross objections and modifies the order of the lower court by awarding to the plaintiff the sum of Rs. 2614-5-6 in place of the sum of Rs. 2221-1-6. With this modification the order of the lower court is confirmed.

RB

Parties to bear their own costs in the Cross-objections.

17th day of March 1949. Sd. S.H. Belavadi.

Deputy Registrar.

Bill of Costs in the High Court.

By the appellant.	Rs.As.Ps.
Stamps for Memorandum of appeal.	58-2-0
Stamps for copies of decree and judgment.	1-14-0
Stamp for Vakalatnama (Govt Pleader appears)	0-0-0
Bhatta for process.	2-0-0
Sectioner's fee.	1-8-0
Advocate's fee.	45-0-0
Printing charges.	11-0-0
Copying charges for preparing paper books.	1-12-0
Advocate's fee in the matter of cross objections	67-13-8
Copying ~~Fee~~ under Rule 111 of the High Court Appellate Side Rules 1936.	1-2-0
Total	190-3-8

By the respondent.	Rs.As.Ps.
Stamp for Vakalatnama.	5-0-0
Stamp for application to enter the name of the heir of the deceased respondent	5-0-0
Advocate's fee.	45-0-0
Printing charges.	5-0-0
Stamp for affidavit	0-5-0
Stamp for Memorandum of cross objections.	118-12-0
Advocate's fee in the matter of cross - objections.	67-13-8
Total	246-14-8

(Seal) Sd. S.H. Belavadi.
Deputy Registrar.
The 17th day of March 1949.

True Copy

for Deputy Registrar.

The 30/31 day of ~~July~~ August 1949

K199

Rs.As.Ps. Fls. 1

Sectioner Mr. G.R.Desai. 0-2-0
Examiner Mr. V.N.Shah 0-0-0
Reader Mr. D.S.Nawalkar
Paper charges. 0-0-3

Total 0-2-3

Annas two and pies three only

Applied for on 19-3-49
Copy ready on 9-8-49
Copy delivered on 1-9-49
Sent by P. P. / Regd. Post on

Assistant Superintendent

Superintendent D. D.
9-8-1949.

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case of

The Collector of Belgaum ... ... Appellant.
(Original defendant).

versus

Shiddu Joti Magdum ... ... Respondent.
(Original plaintiff).

being Appeal No. 331 of 1945 from Original Decree.

(with First Appeal Nos. 328 to 330 and 332 of 1945).

The Government Pleader, for the appellant.

Mr. B.N. Gokhale Advocate for the respondent.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

Coram :- Weston, and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the lower court and dismisses the appeal with costs.

17th day of March 1949.

Sd. S.H. Belavadi.
Deputy Registrar.

True Copy

for Deputy Registrar.

The 9th day of August 1949

K. 199

Rs. As. Ps. Fls. 7

Sectioner Mr. G.R. Desai.	0-14-0
Examiner Mr. R.C. Rawal / Reader Mr. V.R. Oza.	0- 3-0
Paper charges.	0- 0-6
Total	1-1-6

Rupee one, anna one and pies six only.

Superintendent D.D.
18-1949

Copy applied for on 19-3-49
Copy ready on 1-8-49
Copy delivered on 1-9-49
Sent by V. P. P. / Regd. Post on

Assistant Superintendent

In the High Court of Judicature at Bombay.

Thursday the 17th day of March 1949.

Appeal No. 331 of 1945 from Original Decree.

(With First Appeal Nos. 328 to 330 and 332 to 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum ... ... Appellant.
(Original defendant).

versus

Shiddu Joti Magdum ... ... Respondent.
(Original plaintiff).

Claim Rs. 2,126-15-3 for all purposes.

This is a reference under section 18 of the Land Acquisition Act.

The Land Acquisition Suit No. 11 of 1944 was decided by the Assistant Judge of Belgaum who awarded Rs. 5403-4-0 as compensation to the plaintiff ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against are :-

RCP

1. That the learned Assistant Judge erred in awarding compensation at rates higher than those fixed upon by the Prant officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note :- The learned Assistant Judge awarded Rs. 5403-4-0 and the Prant Officer s award was Rs. 3276-4-9. Therefore the difference viz. (Rs. 5403-4-0)- (Rs. 3276-4-9) = Rs. 2126-15-3 is the claim in appeal.

Coram :- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the lower court and dismisses the appeal with costs.

17th day of March 1949. Sd. S.H. Belavadi.
Deputy Registrar.

Bill of Costs in the High Court

By the appellant.	Rs. As. Ps.
Stamps for Memorandum of Appeal.	168-12-0
Stamps for copies of decree and judgment.	1-14-0
Stamps for Vakalatnama. (Govt. Pleader appears)	0-0-0
Bhatta for process.	3-0-0
Sectioner's fee.	1-7-0
Advocate's fee.	103-12-11
Printing Charges.	11-0-0
Copying charges for preparing paper books.	1-12-0
Copying fee under Rule 111 of the High Court appellate side Rules, 1936.	1-8-0
Total	293-1-11

By the respondent	Rs. As. Ps.
Stamps for Vakalatnama.	2-8-0
Advocate's fee.	103-12-11
Total	106-4-11

HIGH COURT APPEAL SIDE BOMBAY CERTIFIED COPY

(Seal) Sd. S.H. Belavadi.

Deputy Registrar.

The 17th day of March 1949.

True Copy

for Deputy Registrar.

The 1st day of ~~July~~ August 1949

K. 194.

	Rs. as. ps.
Sectioner:- Mr. D.T.Patwardhan	0--4--0
Examiner:- Mr. Mainkar	
Reader:- Mr. Changomal	0--1--0
Paper charges:--	0;-0--3
Total Rs...	0--5--3.

Fs. 2.

Annas five and pies three only.

Supdt. Decree Dept.
10-8-1949.

plied for on 19-3-49.
en 10-8-49.
y d[illegible] on 1-9-49
ent by hd. Post on
[illegible]
Assistant Superintendent.

In His Majesty's High Court of Judicature at Bombay

Order passed by the High Court in the case of

The Collector of Belgaum (Original Defendant)...Appellant.

Versus

*Janu Joti Patil since deceased by his heirs:--
1 Yesubai w/o Janu Joti Patil; 2 Bapu Janu Patil;
3 Appa Janu Patil 4 Laku Janu Patil; 5 Ankush Janu Patil
Nos 2 to 5 minors by their guardian mother Respondent No.1.
*Amended vide Court's order dated 29-3-1946 on C.A.20 of 1946.

(Heirs of Original Plaintiff).. .. ..Respondents.

Being Appeal No.334 of 1945 From Original Decree.
(With First Appeals Nos.328 to 333 and 335 to 337 of 1945).

The Government Pleader for the Appellant.

Mr. B.N. Gokhale K.G.Datar Advocate for the Respondents.

Coram:-Weston and Dixit JJ.

For the reasons given in the judgment recorded in First Appeal No.328 of 1945, the Court dismisses the appeal with Costs, partly allows the cross objections and modifies the order of the lower Court by awarding the sum of Rs.3366-0-0 in place of the sum of Rs.2839-14-0. With this modification the order of the lower Court is confirmed.

Parties to bear their own costs in the cross-objections.

17th March 1949.

Sd/-S.H.Belavadi
Deputy Registrar.

True Copy

For Deputy Registrar

The 10th day of August 1949.

			Rs.as.ps.	
K.194.	Sectioner:- Mr. D.T.Patwardhan		1--2--0	Fs.9
16-7-49.	Examiner:- Mr.	R.C Rawal		
21-7-49.	Reader:- Mr.	V.R.Oza	0--4--0	
	paper charges:--		0--0--6.	
		Total Rs..	1--6--6.	

Re.one, annas six and pies six only.

Supdt. Decree Dept.
25-7-1949.

Applied for on 19-3-49.
Copy ready on 25-7-49
Copy delivered on 1-9-49
Sent by V.P.P. Regd. Post on

Assistant Superintendent.

In the High Court of Judicature at Bombay.

Thursday the 17th day of March 1949

Appeal No334 of 1945 From Original Decree.

(With First Appeals Nos.328 to 333 and 335 to 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum (Original Defendant)....Appellant.

Versus

*Janu Joti Patil since deceased by his heirs:-(1) Yesubai w/o Janu Joti Patil; (2) Bapu Janu Patil (3) Appa Janu Patil (4) Laku Janu Patil (5) Ankush Janu Patil Nos.2 to 5 minors by their guardian mother Respondent No.1. Amended vide Court's order dated 29-3-1946 on Civil Application No.20 of 1946. (Heirs of Original Plaintiff).. ...Respondents.

Claim Rs.1110-15-9 for all purposes.

This is a reference under section 18 of the Land Acqui--sition Act.

The Land Acquisition Suit No.9 of 1944 was decided by the Assistant Judge of Belgaum, who awarded Rs.2839-14-0 as compen--sation to the Plaintiff, ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Hon'ble Mr. Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against are:-

1. That the learned Assistant Judge erred in awarding compen--sation at rates higher than those fixed upon by the Prant

Officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Offi--cer had fixed the compensation at rates which were very favou--rable to the Plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr.Kulkarni who had no personal knowledge of the transactions he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note:-- The learned Assistant Judge awarded Rs.2839-14-0 and the Prant Officer's award was Rs. ~~1827~~ 1728- Rs 14-3. Therefore the difference viz., (Rs.2839-14-0-Rs.1728-14-3-)Rs.1110-15-9 is the claim in appeal.

Cross-objections.
Claim Rs. 800/-.

Herein, the Respondents beg to put in the following Cross-Objections to the decree now under appeal:--

1. That the lower Court ought to have held that the proper rate of compensation in respect of the Bagayat land survey No.7 was at least Rs.2500/- per acre as claimed by the Plaintiff.

2. That the finding of the lower Court on issue No.4 is wrong.

3. That the lower Court ought to have accepted and relied upon the evidence adduced by plaintiff in support of his case that the value of the land at the material time was not less than Rs.2500/- per acre.

4. That the lower Court ought to have seen that even in 1941 the prices of the lands had risen very high.

5. That the lower Court has not properly appreciated the documentary evidence on record.

6. That the lower Court has not drawn proper inferences from

RdB

the facts proved in the case.

7. That the learned Judge erred in holding that the proper rate in 1941 for Bagayat land was only Rs.1500/-

8. That the lower Court ought to have seen that the rates which prevailed in 1941 were double of what they were in 1898

9. That the lower Court ought to have taken the prices of the lands obtaining in 1921 as the basis for the ascertain-ment of the present rates.

10. That under the circumstances of the present case the amount awarded to plaintiff is low.

N.B. Claim in cross-objections is restricted to Rs.800/- only.

Coram:- Weston and Dixit JJ.

For the reasons given in the Judgment recorded in First Appeal No.328 of 1945, the Court dismisses the appeal with costs, partly allows the Cross-objections and modifies the order of the lower Court by awarding the sum of Rs. 3366-0-0 in place of the sum of Rs.2839-14-0. With this modif-cation the order of the lower Court is confirmed.

Parties to bear their own costs in the Cross-objections.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

Sd/- S.H.Belavadi
Deputy Registrar.

17th day of March 1949.

Bill of costs in the High Court.

By the Appellant:--	Rs.as.ps.
Stamps for memorandum of appeal.	106--4-0
Stamps for copies of decree and Judgment.	1-14-0
Stamps for vakalatnama (Govt.Pleader appears).	0--0-0
Stamp for application to enter the names of the heirs of the deceased Respondent.	5--0-0
Bhatta for process.	10--0-0
Sectioner's Fee.	1--7-0
Advocate's Fee.	55--8-9
Printing-charges	11--0-0
Copying charges for preparing paper books.	1--12-0
Stamp for affidavit.	1--0-0
Advocate's Fee, in the matter of Cross-objections.	45--0-0
Copying fee under Rule 111 of the High Court Rules, 1936.	1--8-0
Total Rs...	240--5-9.

By the Respondents:--	Rs.as.ps
Stamps for vakalatnama.	2--8-0
Advocate's Fee.	55--8-9
Printing charges.	5--0-0
Stamp for Memorandum of cross-objections.	75--0-0

RCB

	Rs.as.ps.
Advocate's fee in the matter of cross-objections.	45--0-0
Total Rs.....183--0-9.	

Sd/- S.H.Belavadi

Deputy Registrar.

(SEAL)

The 17th day of March 1949.

True Copy

For Deputy Registrar

The 25th day of July 1949.

Rs.as.ps.

63

K. 192. Sectioner:- Mr.D.T.Patwardhan 0--2--0 Fa.1.

1-8-49. Examiner:- Mr. Mainkar
4-8-1949. Reader:- Mr. Changomal 0--0--0

paper charges:-- 0--0--3

Total Rs....0--2--3

Annas two and pies three only.

Supdt.Decree Dept.
10 -8-1949.

Copy applied for on 19-3-49 ✓
Copy delivered on 10-8-49 ✓
Copy dispatched on 1-9-49
V P P.
Sent by ... on
Regd. Post

Assistant Superintendent

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case

The ~~Government of~~ Collector of Belgaum.
(Original Defendant).. ... Appellant.

Versus

Ganu Subrao Sakhadeo (Original Plaintiff) ... Respondent.

Being Appeal No.336 of 1945 From Original Decree
(With First Appeal Nos.328 to 335 and 337 of 1945).

The Government Pleader for the Appellant

Mr.B.N.Gokhale,Advocate for the Respondent.

Coram:- Weston and Dixit JJ.

For the reasons given in the Judgment recorded in First Appeal No.328 of 1945,the Court confirms the order of the lower Court and dismisses the appeal with costs.

17th March 1949.

Sd/- S.H.Belavadi
Deputy Registrar.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

True Copy

For Deputy Registrar

The 10th day of August 1949.

K. 192.

		Rs.as.ps.	
	Sectioner:- Mr. D.T.Patwardhan	0--10-0	Fs.5.
16-7-49	Examiner:- Mr. R Chan		
21-7-49	Reader:- Mr. V.R Oza	0--2--0.	
	paper charges.	0--0--3.	
	Total Rs...	0-12--3.	

Annas twelve and pies three only.

R Chandrachud
Supdt. Decree Dept.
25-7-1949.

applied for on 19-3-49
copy ready on 25-7-49
copy delivered on 1-9-49
sent by V.P.P. / Regd. Post on

Assistant Superintendent

In the High Court of Judicature at Bombay.

Thursday the 17th day of March 1949

Appeal No. 336 of 1945 From Original Decree.

(With First Appeal Nos.328 to 335 and 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum (Original Defendant).... Appellant.

Versus

Ganu Subrao Sakhadeo (Original Plaintiff)... ... Respondent.

Claim Rs.606-12-3 for all purposes.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

This is a reference under section 18 of the Land Acquisi-tion Act.

The Land Acquisition Suit No.6 of 1944 was decided by the Assistant Judge of Belgaum, who awarded Rs.2211-1-6 as compensa-tion to the plaintiff, ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Hon'ble Mr. Justice Gajendragadkar on the 7th day of September 45.

The grounds of objection to the decision appealed against are:-

1. That the learned Assistant Judge erred in awarding compensa-tion at rates higher than those fixed upon by the Prant Officer. Those higher rates are not justified by the evidence on the recor

2. That from the transactions, Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

RCQ

Note:-- The learned Assistant Judge awarded Rs.2211-1-6 and the Prant Officer's award was Rs.1604-5-3. Therefore the diff--erence viz. (Rs.2211-1-6)- (Rs.1604-5-3) Rs.606-12-3. RCB

Coram:- Weston and Dixit JJ.

For the reasons ~~st~~ given in the Judgment, recorded in First Appeal No.328 of 1945, the Court confirms the order of the lower Court and dismisses the appeal with costs.

Sd/- S.H.Belavadi
Deputy Registrar.

17th day of March 1949.

Bill of costs in the High Court

By the Appellant:--	Rs.as.ps.
Stamp for memorandum of appeal.	57--3-0
~~A~~ Stamps for copies of decree and Judgment.	~~1-1-4~~ 1-14-0
Stamps for vakalatnama (Govt.Pleader appears)...	0--0-0
Bhatta for process.	2--0-0
Sectioner's Fee.	1--8-0
Advocate's Fee.	45--0-0
Printing charges.	11--0-0
Copying charges for preparing paper books.	1-2--0
Copying ~~xhx~~ fee under Rule 111 of the High Court Rules, 1936.	1--2-0
Total Rs..	121--7-0

By the Respondent:--	Rs.as.ps.
~~By~~ Stamps for Vakalatnama.	2--8-0
Advocate's Fee.	45--0-0
Total Rs...	47--8-0

Sd/ S.H.Belavadi
Deputy Registrar
The 17th day of March 1949.

True Copy

For Deputy Registrar

The 25th day of July 1949.

K. 193.

		Rs.	as.	ps.	
Sectioner:-	Mr.D.T.Patwardhan	0	3	0	Fs.1½
Examiner:-	Mr. Mainkar				
Reader:-	Mr. Changoomal	0	1	0	
paper charges:--		0	0	3.	
Total Rs..		0	4	3	

67
2.11
851

Annas four and pies three only.

Supdt. Decree Dept.
10 -8-1949.

Copy applied for on 19-3-49
Copy ready on 10-8-49
Copy delivered on 1-9-49
Sent by V.P.P. Regd. Post on

Assistant Superintendent

In His Majesty's High Court of Judicature at Bombay

Order passed by the High Court in the case of

The Collector of Belgaum (Original Defendant)... Appellant.

Versus

Dattatraya Ramchandra Kulkarni (Ori.Plaintiff)..Respondent.

Being Appeal No.337 of 1945 From Original Decree.

(With First Appeals Nos.328 to 336 of 1945).

The Government Pleader for the Appellant.

Mr.B.N.Gokhale,Advocate for the Respondent.

Coram:- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No.328 of 1945, the Court dismisses the appeal with costs, partly allows the cross-objections and modifies the order of the lower Court by awarding to the plaintiff the sum of Rs.5228-10-0 in place of the sum of Rs.4422-3-0. With this modification the order of the lower Court is confirmed.

Parties to bear their own costs in the Cross-objections

Sd/-S.H.Belavadi
Deputy Registrar.
The 17th day of March 1949.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

True Copy

For Deputy Registrar

The 10th day of August 1949.

		Rs.as.ps.	
K.[illegible]/193	Sectioner:- Mr.D.T.Patwardhan	1--5--0	Fs.10½
	Examiner:- Mr. R.C.Rane		
	Reader:- Mr. V.R.Oza	0--5--0	
16-7-49 21-7-49	paper charges:--	0--0--6.	Nil
	Total Rs.	1--10-6.	

Re.one, annas ten and pies six only.

Khandekar
Supdt.Decree Dept.
25-7-1949.

applied for on 19-3-49
ready on 25-7-49
duly delivered on 1-8-49
sent by V.P.P. / Regd. Post on

Assistant Superintendent

In the High Court of Judicature at Bombay

Thursday the 17th day of March 1949

Appeal No.337 of 1945 From Original Decree.

(With First Appeals Nos.328 to 336 of 1945).
(Under Act I of 1894).

The Collector of Belgaum (Original Defendant).....Appellant.

Versus

Dattatraya Ramchandra Kulkarni (Original Plaintiff).Respondent

Claim Rs.1213-14-9 for all purposes.

This is a reference under Section 18 of the Land Acquisition Act.

The Land Acquisition Suit No.7 of 1944 was decided by the Assistant Judge of Belgaum, who awarded Rs.4422-3-0 as compensation to the plaintiff, ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Hon'ble Mr.Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against are:

1. That the learned Assistant Judge erred in awarding compensation at rates higher than those fixed upon by the Prant Officer. Those higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were ve-

RCR

favourable to the plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr.Kulkarni who had no personal knowledge of the transactions,he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law,the weight of evidence on the record and the probabilities.

Note:--The learned Assistant Judge awarded Rs.4422-3-0 and the Prant Officer's award was Rs.3208-4-3.Therefore the difference viz.,(Rs.4422-3-0-(Rs.3208-4-3)=Rs.1213-14-9 is the claim in appeal.

Cross-Objections in First Appeal No.337 of 1945.
Claim Rs.2764-5-4 for all purposes.

The Respondent,above-named begs to file cross-objections against the decree appealed from on the following among other grounds,namely,that:--

1. The lower Court should have awarded compensation to the Respondent at the rate of Rs.2500/-per acre of Bagayat lands.

2. It is an error to hold that there is only a difference of Rs.200 per acre in the price of Bagayat and Jirayat lands.

3. The oral and documentary evidence on the record has not been properly appreciated and construed.

4. It should have been held that the test of income would support the claim of the Respondent.

5. The fact that the Respondent has lost the bulk of his Bagayat lands which were the main source of his livelihood has been ignored.

6. The fact that the award gave Rs.800/-for the well has been lost sight of.

7. The amount of Rs.50 awarded as compensation in the award to Respondent in respect of S.No.1 for the loss of well-water from S.No.2 should have been retained and increased.

8. The lower Court has not properly appreciated the fact that the Panchanamas produced at the time of the award have not

been duly proved and that the Panchas, though cited as witne-
-sses, have not been examined.

9. Interest should have been awarded from the date of possession at the rate of 6 per cent.

10. It was wrong not to have allowed the Respondent his costs in the suit.

11. The material provisions of the Land Acquisition Act I of 1894 have not been properly followed.

12. The decision is against law, equity and the weight of evidence on the record.

N.B:-- The learned Assistant Judge awarded Rs.4034-3-0 in res-
-pect of 1/2 share in S.Nos.2 and 4 at the rate of Rs.1500/— per acre. The Respondent claims compensation in respect of the said S.Numbers at the rate of Rs.2500/- per acre. Calculated on this basis, the additional compensation which the Respon-
-dent would be entitled to get would amount to Rs.2689-5-4. He is also claiming Rs.25/- as additional compensation in res-
-pect of 1/2 share in the well as per the valuation in the award. He claims further Rs.50/- in respect of compensation for loss of well-water sustained by his S.No.1. The claim in the cross-objection would, therefore, be Rs.2764-5-4. This includes the statutory 15 per cent.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

Coram:- Weston and Dixit JJ.

For the reasons given in the Judgment recorded in First Appeal No.328 of 1945, the Court dismisses the appeal with costs, partly allows the cross-objections and modifies the order of the lower Court by awarding to the plaintiff the sum of Rs. 5228-10-0 in place of the sum of Rs.4422-3-0. With this modification the order of the lower Court is confirmed.

Parties to bear their own costs in the cross-objections.

Sd/- S.H.Belavadi
Deputy Registrar.

17th day of March 1949.

R&R

Bill of costs in the High Court.

By the appellant:--	Rs.as.ps.
Stamps for memorandum of appeal.	112- 8-0
Stamps for copies of decree and Judgment.	1-14-0
Stamps for vakalatnama (Govt.Pleader appears)	0--0-0
Bhatta for process.	2--8-0
Sectioner's Fee.	1--9-0
Advocate's Fee.	60-11-2
Printing charges.	11--0-0
Copying charges for preparing paper books.	1-12-0
Advocate's Fee in the matter of cross objections.	122-14-10
Copying fee under Rule 111 of the High Court Rules 1936	1--2-0
Total Rs...	315-15-0.

By the Respondent:--	Rs.as.ps
Stamps for vakalatnama.	2--8-0
Advocate's Fee.	60-11-2.
Printing charges.	5--0-0
Stamps for memorandum of cross objections.	206--4-0
Advocate's Fee in the matter of cross-objections.	122-14-10
Total Rs...	397--6-0

Sd/- S.H.Belavadi
Deputy Registrar
The 17th day of March 1949.

(SEAL)

True Copy

For Deputy Registrar
The 25th day of July 1949.

K. 200.

	Rs. As. Ps. Fls. 1
Sectioner Mr. G.R.Desai.	0-3-0
Examiner Mr. P.S.Joshi.)	
Reader Mr. Pendharkar)	0-1-0
Paper charges.	0-0-3
Total	0-4-3

Annas four and pies three only.

Superintendent D.D.
9-11-1949.

Copy applied for on 19-3-49
Copy ready on 9-11-49
Copy delivered on 26-11-49
Sent by V.P.P. / Regd. Post on

Assistant Superintendent

In His Majesty's High Court of Judicature at Bombay.

Order passed by the High Court in the case of

The Collector of Belgaum ... ... Appellant.
(Original Defendant).

Versus

Narayan Sadashiv Kulkarni ... ... Respondent.
(Original Plaintiff).

being Appeal No. 333 of 1945 from Original Decree.

(with First Appeals Nos.328 to 332 and 334 to 337 of 1945).

(Under Act I of 1894).

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

The Government Pleader for the Appellant.

Mr. B.N. Gokhale, Advocate for the respondent.

Coram :- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court dismisses the appeal with costs. The Court partly allows the cross-objections and modifies the order of the lower court by awarding to the plaintiff the sum of Rs. 8539-11-0 in place of the sum of Rs. 7518-1-0 . With this modification the order of the Lower court is confirmed.

Parties to bear their own costs in the Cross - objections.

17th March 1949
11th July 1949.

Sd. S.H. Belavadi.
Deputy Registrar.

True Copy

for Deputy Registrar.

The 9th day of November 1949.

Rs.As.Ps. Fls. 10

Sectioner Mr. G.R.Desai. 1-4-0

K.200 Examiner Mr. V.Y.Gupte.)
Reader Mr. Vakharkar) 0-5-0
Paper charges. 0-0-6

Total 1-9-6

Rupee one, annas nine and pies six only.

Superintendent D.D.
19-10-1949

Copy ready for on 19-3-49
" " 19-10-49
" " 26-11-49

Present on

In the High Court of Judicature at Bombay.

Thursday the 17th day of March 1949.
Monday the 11th day of July 1949.

Appeal No. 333 of 1945 from Original Decree.

(with First Appeal Nos. 328 to 332 and 334 to 337 of 1945).

(Under Act I of 1894).

The Collector of Belgaum ... ... Appellant.
(Original Defendant).

versus

Narayan Sadashiv Kulkarni ... ... Respondent.
(Original plaintiff).

Claim Rs. 1863-10-9 for all purposes.

This is a reference under section 18 of the Land Acquisition Act.

The Land Acquisition Suit No. 5 of 1944 was decided by the Assistant Judge of Belgaum who awarded Rs. 7518-1-0 as compensation to the plaintiff ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of September 1945.

The grounds of objection to the decision appealed against are :-

1. That the learned Assistant Judge erred in awarding - compensation at rates higher than those fixed upon the by the Prant Officer. Those higher rates are not justified by the - evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presuming that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note, The learned Assistant Judge awarded Rs. 7518-1-0 and the Prant Officer's award was Rs. 5654-6-3 . Therefore the difference viz. (Rs. 7518-1-0) -(Rs. 5654-6-3)= Rs. 1863-10-9 is the claim in Appeal.

Cross objections in First Appeal No. 333 of 1945.

District Belgaum.

Claim Rs. 4078-1-5 for all purposes.

The respondent above named, begs to file cross objections against the decree appealed from on the following among other grounds namely that :-

1. The lower court should have awarded compensation to the respondent at the rate of Rs. 2000 per acre of Jirayat land.

2. The oral and documentary evidence on the record has not been properly appreciated and construed.

3. It was an error to say that the prices of lands in 1921 were one and one half times the normal.

4. The respondent should have been awarded compensation at least at the rate of which he made his purchase in 1921.

5. It should have been held that the test of income would support the claim of the respondent.

6. The material provisions of the Land Acquisition Act, I of 1894 have not been properly followed.

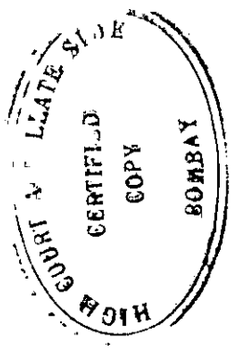
7. The fact that the respondent has lost the bulk of his lands which were the main source of his livelihood has been ignored.

8. The lower court has not properly appreciated the fact that the Panchanamas produced at the time of the award have not been duly proved, and that the Panchas, though cited as witnesses, have not been examined.

9. Interest should have been awarded from the date of possession at the rate of 6 per cent per annum.

10. It was wrong not to have allowed the plaintiff rdspondent his costs.

11. The decision is against law, equity and the weight of evidence on the record.



N.B. The learned Assistant Judge awarded Rs. 6634-1-0 in respect of one half share of land in S.No. 5 at the rate of Rs. 1300/ per acre, and Rs. 759-0-0 in respect of one half share of land in S. No. 6 at the rate of Rs. 1200 per acre. The respondent claims compensation in respect of both survey numbers at the rate of Rs. 2000 per acre. Calculated on this basis, the additional compensation which the respondent would be entitled to get would amount to Rs. 4078-1-5. This includes the statutory 15 per cent.

Coram :- Weston and Dixit, JJ.

For the reasons ~~given~~ given in the judgment recorded in First Appeal No. 328 of 1945, the Court dismisses the appeal with costs. The Court partly allows the cross-objections and modifies the order of the lower court by awarding to the plaintiff/respondent the sum of Rs. 8539-11-0 in place of the sum of Rs. 7518-1-0. With this modification the order of the Lower Court ~~xxx~~ is confirmed. Parties to bear their own costs in the cross objections.

17th March 1949
11th ~~M~~ July 1949.

Sd. S.H. Belavadi.
Deputy Registrar.

Bill of Costs in the High Court.

By the appellant.	Rs.As.Ps.
Stamps for Memorandum of Appeal.	150-0-0
Stamps for copies of decree and judgment.	1-14-0
Stamps for Vakalatnama. (Govt. Pleader appeared for appellant)	0-0-0
Bhatta for process.	2-8-0
Sectioner's fee.	1-9-0
Advocate's fee.	93-2-10
Printing charges	11-0-0
Copying charges for preparing paper books.	1-12-0
Advocate's fees in the matter of cross objections.	162-5-6
Copying fee under Rule 111 of the High Court Appellate Side Rules, 1936	1-2-0
Total	425-5-4

By the respondent	Rs.As.Ps.
Stamps for Vakalatnama.	2-8-0
Advocate's fee.	93-2-10
Printing charges.	5-0-0
Stamp for Memorandum of cross objections.	287-8-0
Advocates fees in the matter of cross objections	162-5-6
Total	550-8-4

(Seal) Sd. S.H. Belavadi.

Deputy Registrar.

The 17th day of March, 1949.

True Copy

Rhahan

for Deputy Registrar.

The 19th day of October 1949

Bel 145
Log 1011

Rs.as.ps.

Recd on 1-8-49
Typed on 3-8-49. K. 195. Sectioner Mr.D.R.Gokarn 0-2-0 Fols. 1
Examiner Mr. V.N.Shah 0-0-0
Reader Mr. D.S.Nerurkar
Paper charges. 0-0-3

Total Rs....0-2-3

Annas Two and pies three only.

Supdt Decree Deptt.
9th-8-49.

ed for on 19-3-49
ady read on 9-8-49
by delivered on 9-8-49
ent by K.P.A. Regd. Post on

Assistant Superintendent

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE AT BOMBAY.

Order passed by the High Court in the Case of :

The Collector of Belgaum. (Orig-Deft).....Appellant.

Versus.

Savitribai Sakharam Kulkarni (Orig-plff).....Respondent.

being Appeal No. 335 of 1945 From Original Decree

(With First Appeals Nos.328 to 331,333,334,336 & 337 of 1945)

(Under Act I of 1894)

The Government Pleader for the Exx Appellant.

No.appearance for the Respondent.

Coram:- Weston and Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the lower Court and dismisses the appeal. There shall be no order as to costs.

17th day of March 1949.

Sd/- S.H.Belavadi.
Deputy Registrar.

True Copy.

For Deputy Registrar.

The 9th day of August 1949.

Recd on 16-7-49
Typed on 19-7-49. K.195.

	Rs.as.ps.	
Sectioner Mr.D.R.Gokarn	0-10-0	Fols. 5 ~~Fols. 5~~
Examiner Mr. C J Sawant	)0-2-0	
Reader Mr. P R Dabholkar	)	
Paper charges.	0-0-6	
Total Rs..	0-12-6	

Annas Twelve ~~xxxxxx~~ and pies six only.

Supdt Deptte Depat.
22-7-49.

Copy applied for on 19-3-49.
Copy ready on 22-7-49
Copy delivered on 1-9-49
sent by V.P.P. / Regd. Post on

Assistant Superintendent

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Thursday the 17th day of March 1949.

Appeal No.335 of 1945 From Original Decree.

(With First Appeals Nos. 328 to 331, 333,334,336 & 337 of 1945)

(Under Act I of 1894)

The Collector of Belgaum.

(Original Defendant).... .....Appellant.

Versus.

Savitribai Sakharam Kulkarni

(Original Plaintiff).....Respondent.

Claim:- Rs.1863-10-3 for all purposes.

This is a reference under Section 18 of the Land Acquisition Act.

The Land Acquisition Suit No.8 of 1944 was decided by the Assistant Judge of Belgaum, who awarded Rs.7518-1-0 as compensation to the Plaintiff, ordering parties to bear their costs.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Honourable Mr. Justice Gajendragadkar on the 7th day of Septem-ber 1945.

The grounds of objection to the decision appealed against are :-

1. That the learned Assistant Judge erred in awarding compensation at rates higher than those fixed upon by the Prant Officer. Those - higher rates are not justified by the evidence on the record.

2. That from the transactions Bandu Jivaji and Mithare, the learned Assistant Judge should have held that the Prant Officer had fixed the compensation at rates which were very favourable to the Plaintiffs.

3. That the learned Assistant Judge erred in holding that the sale to Mithare ~~fx~~ was for a price lower than the normal price.

4. That the learned Assistant Judge erred in relying upon the evidence of Mr. Kulkarni who had no personal knowledge of the transactions, he deposed to.

5. That the learned Assistant Judge erred in presenting that prices had nearly doubled in 1941. He should have held that the rise in prices began by the end of 1942 and not earlier.

6. That the decree is contrary to law, the weight of evidence on the record and the probabilities.

Note:- The learned Assistant Judge awarded Rs.7518-1-0 and the Prant Officer's award was Rs.5654-6-9. Therefore the difference viz. (Rs.7518-1-0) (Rs.5654-6-9) - Rs.1863-10-3 - is the claim in appeal.

Coram:- Weston & Dixit, JJ.

For the reasons given in the judgment recorded in First Appeal No. 328 of 1945, the Court confirms the order of the lower Court and dismisses the appeal. There shall be no order as to costs.

17th day of March 1949.

Sd/- S.H.Belavadi.
Deputy Registrar.

Bill of costs in the High Court:

By the Appellant:	Rs.as.ps.
Stamp for Memorandum of Appeal.	150-0-0
Stamps for copies of decrees & judgments.	1-14-0
Stamp for Vakalatnama. G.P.appears.	0-0-0
Bhatta for Process.	2-8-0
Advocate's Fee.	93-2-11
Printing charges.	11-0-0
Copying charges for preparing paper-books.	1-12-0
Copying Fee under Rule 111 of the High Court Rules 1936.	1-14-0
Total Rs...	262-2-11

~~By xthe xRespondentx~~ ~~Rexxesxpex~~

No appearance for the Respondent.

Sd/- S.H.Belavadi.

Deputy Registrar.

The 17th day of March 1949.

True Copy.

For Deputy Registrar.

The 22nd day of July 1949.

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY